

Memorandum

MIAMI-DADE
COUNTY

Date: July 17, 2012

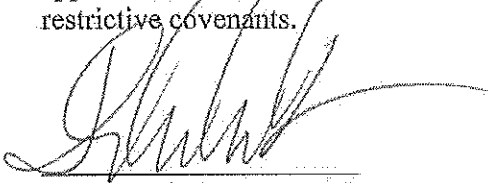
To: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

Subject: Class IV Permit Application by MDXQ LLC Requesting After-The-Fact Authorization to Impact 81 Acres of Wetlands and Authorization to Impact 15.04 Acres of Wetlands for an Agricultural Operation and Acceptance of Two Associated Restrictive Covenants for Conservation of Agriculture and Preservation of 23.1 Acres of On-Site Wetlands

Agenda Item No. 5(E)

Attached, please find for your consideration an application by MDXQ LLC for a Class IV permit. Also attached is the recommendation of the Director of the Department of Regulatory and Economic Resources and a proposed resolution approving the issuance of the Class IV permit and approving the acceptance of two restrictive covenants.



Jack Osterholt, Deputy Mayor

Memorandum



Date: June 22, 2012

To: Carlos A. Gimenez
Mayor

From: Jack Osterholt, Deputy Mayor, Director
Department of Regulatory and Economic Resources

Subject: Class IV Permit Application by MDXQ LLC Requesting After-The-Fact Authorization to Impact 81 Acres of Wetlands and Requesting Authorization to Impact 15.04 Acres of Wetlands for an Agricultural Operation and Acceptance of Two Associated Restrictive Covenants for Conservation of Agriculture and Preservation of 23.1 Acres of Onsite Wetlands

Recommendation

I have reviewed the attached application for a Class IV permit by MDXQ LLC. Based upon the applicable evaluation factors set forth in Section 24-48.3 of the Code of Miami-Dade County, I recommend that the Board of County Commissioners (Board) approve the issuance of a Class IV permit and the acceptance of the two associated restrictive covenants for the reasons set forth below.

Scope

The subject property is located in Commissioner Diaz's District 12, between NW 6 Street and NW 9 Lane and between NW 137 and 147 Avenues in Government Lot 3, Township 53 & 54 South, Range 39 East, Miami, Florida.

Fiscal Impact/Funding Source

Not applicable

Track Record/Monitor

The Wetlands Resources Section Manager in the Department of Regulatory and Economic Resources will monitor the conditions of the permit.

Background

The attached Class IV permit application requests after-the-fact authorization for the dredging and filling of 81.0 acres of wetlands and authorization for the proposed dredging and filling of 15.04 acres of wetlands not supporting halophytic (salt tolerant) vegetation for an agricultural operation. This project is coming before the Board because Chapter 24-48 of the Code requires Board approval for the issuance of Class IV permits to dredge and fill more than 10 acres of wetlands outside the Urban Development Boundary. The proposed project site is outside the Urban Development Boundary and adjacent to wetland properties to the north, south and west, and State Road 836 Extension to the east. A site diagram is included in Attachment A.

On June 7, 1985, Class IV Permit CC-898 was issued to Osprey Services for the agricultural rockplowing of 240 acres of wetlands west of NW 137 Avenue between NW 6 Street and NW 9 Lane in Miami, Florida. On February 27, 1987, a new Class IV permit was issued that reaffirmed the agricultural rockplowing and approved filling for an access road. When this permit expired on February 27, 1989, only 84.35 acres had been placed into agricultural production. In subsequent years, the property owner placed another 81.0 acres of wetlands into

agricultural production without obtaining a new Class IV permit. Following issuance of a Notice of Violation and progressive enforcement action on the part of the Department, the property owner has agreed to resolve the outstanding violation through obtaining an after-the-fact permit.

The wetlands proposed to be impacted within the project site are historically characterized as herbaceous prairie. The site contains areas of native wetland prairie with minimal impacts from *Melaleuca*, an invasive exotic plant species. Compensatory mitigation for the ecological impacts related to the loss of wetland functions will be accomplished by enhancing 47.5 acres of wetlands between the widely spaced planted rows, and preserving and enhancing 23.1 acres of wetlands on-site.

The onsite preservation and enhancement will consist of treatment and removal of exotic vegetation and the recording of a restrictive covenant for the long term preservation of the 23.1 acre area. The 47.5 acres enhancement area will be covered by a second restrictive covenant preserving the existing site layout for agriculture to ensure impacts will be minimized. The covenant will remain in effect until the subject agricultural operations cease and the area is restored or a subsequent Class IV permit is approved for a modification to on-site conditions.

The proposed project has been designed in accordance with all relevant Miami-Dade County Class IV permit criteria and is consistent with all other Miami-Dade County wetland protection provisions. Please find attached a Project Report from the Department of Regulatory and Economic Resources which sets forth in more detail the reasons this project is recommended for approval by the Department of Regulatory and Economic Resources pursuant to the applicable evaluation factors set forth in Section 24-48.3 of the Code of Miami-Dade County, Florida. The conditions, limitations, and restrictions set forth in the Project Report attached hereto are incorporated herein by reference hereto.

Attachments

- Attachment A: Class IV Permit Application, Site Plans, Restrictive Covenants
- Attachment B: Applicant's/Agent's Letter, Engineer's Certification Letter
- Attachment C: Zoning Approval Letter, Cut & Fill Approval, Mitigation Acceptance Letter
- Attachment D: Adjacent Property Owners List
- Attachment E: Project Report



MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: July 17, 2012

FROM: 
R. A. Cuevas, Jr.
County Attorney

SUBJECT: Agenda Item No. 5(E)

Please note any items checked.

- ☐ "3-Day Rule" for committees applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☒ Statement of fiscal impact required
- ☒ Ordinance creating a new board requires detailed County Manager's report for public hearing
- ☒ No committee review
- ☐ Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous____) to approve
- ☐ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 5(E)
7-17-12

RESOLUTION NO. _____

RESOLUTION RELATING TO AN APPLICATION BY MDXQ LLC FOR A CLASS IV PERMIT REQUESTING AFTER-THE-FACT AUTHORIZATION TO IMPACT 81 ACRES OF WETLANDS AND REQUESTING TO IMPACT 15.04 OF WETLANDS FOR AN AGRICULTURAL OPERATION LOCATED BETWEEN NW 137 AVENUE AND NW 147 AVENUE AND BETWEEN NW 6 STREET AND NW 9 LANE IN GOVERNMENT LOT 3, TOWNSHIP 53 AND 54 SOUTH, RANGE 39 EAST, MIAMI, FLORIDA, AND ACCEPTANCE OF TWO ASSOCIATED RESTRICTIVE COVENANTS FOR CONSERVATION OF AGRICULTURE AND PRESERVATION OF 23.1 ACRES OF ON-SITE WETLANDS

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board having considered all the applicable factors contained within Section 24-48.3 of the Code of Miami-Dade County, hereby approves the application by MDXQ LLC for a Class IV permit requesting after-the-fact authorization to impact 81.0 acres of wetlands and authorization to impact 15.04 acres of wetlands for an agricultural operation, and accepts the restrictive covenants proffered for the conservation of agriculture and the preservation and enhancement of 23.1 acres of on-site wetlands within the project site located between NW 137 Avenue and NW 147 Avenue and between NW 6 Street and NW 9 Lane in Government Lot 3, Township 53 and 54 South, Range 39 East, in Miami-Dade County, subject to the conditions set forth in the memorandum from the Director of the Miami-Dade County Department of Regulatory and Economic Resources, a copy of which is attached hereto and made a part hereof. The issuance of this approval does not relieve the applicant from obtaining all applicable Federal, State, and local permits.

The foregoing resolution was offered by Commissioner
who moved its adoption. The motion was seconded by Commissioner
and upon being put to a vote, the vote was as follows:

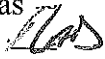
Joe A. Martinez, Chairman	
Audrey M. Edmonson, Vice Chairwoman	
Bruno A. Barreiro	Lynda Bell
Esteban L. Bovo, Jr.	Jose "Pepe" Diaz
Sally A. Heyman	Barbara J. Jordan
Jean Monestime	Dennis C. Moss
Rebeca Sosa	Sen. Javier D. Souto
Xavier L. Suarez	

The Chairperson thereupon declared the resolution duly passed and adopted this 17th day of July, 2012. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency. 

Robert A. Duvall

Attachment A

Class IV Permit Application Site Plans Restrictive Covenants

Class IV Permit Application

MIAMI-DADE
COUNTY

Application number:
2008-CLIV-PER-00056

Application must be filled out in its entirety. Please indicate N/A for non-applicable fields.

1. Applicant Information: Name: <u>MDXQ LLC by Jack Killmar, Manager</u> Address: <u>PMB 83</u> <u>10773 NW 58th Street, Doral, FL</u> Zip Code: <u>33178</u> Phone #: <u>786-236-5439</u> Fax #: <u>305-500-7009</u> Email: _____	2. Applicant's Authorized Permit Agent: <small>Agent is allowed to process the application, furnish supplemental information relating to the application and bind the applicant to all requirements of the application.</small> Name: <u>Michael A. Vazquez</u> Address: <u>180 NE 168th Street, N. Miami Beach, c/o</u> <u>Fortin, Leavy, Skiles, Inc.</u> Zip Code: <u>33162</u> Phone #: <u>305-653-4493</u> Fax #: <u>305-651-7162</u> Email: <u>michael@lasurvey.com</u>
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3. Location where proposed activity exists or will occur (latitude and longitude are only necessary for properties without address or folio #):
 Folio #(s): 30-3953-000-0130.0138 Latitude: _____ Longitude: _____
 Street Address: Rt 1 NW 8 St & NW 9 Ln; Bmnt NW 187 Ave. & NW 147 Ave. Section: Govt. Lot 3 Township: 53 & 54 Range: 39
 In City or Town: Unincorporated Near City or Town: _____

4. Describe the proposed activity (check all that apply):

<input checked="" type="checkbox"/> Agriculture <input type="checkbox"/> Row Crops <input type="checkbox"/> Fruit Grove <input type="checkbox"/> Field Nursery - At Grade <input checked="" type="checkbox"/> Field Nursery - Row and Furrow <input type="checkbox"/> Container Nursery <input type="checkbox"/> Shade House Nursery <input type="checkbox"/> Drainage Features <input type="checkbox"/> Other: _____	<input checked="" type="checkbox"/> Excavation/Dredging (See Box 6) <input type="checkbox"/> Lake Excavation <input type="checkbox"/> Drainage Features <input type="checkbox"/> Rock Mining <input checked="" type="checkbox"/> Other - Excavation of Furrows	<input checked="" type="checkbox"/> Filling <input checked="" type="checkbox"/> Unarmuck <input checked="" type="checkbox"/> Soil/Muck <input type="checkbox"/> Sand <input type="checkbox"/> Marl <input type="checkbox"/> Clay <input type="checkbox"/> Stone <input type="checkbox"/> Concrete Rubble
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☒ Other: Access Road and Replacement Fill Pad _____

Total Property size: 246.02 acres Wetland acreage proposed to be impacted: See attached acres

Are you seeking an after-the-fact approval for any portion of the work (ATF)? ☒ Yes ☐ No

5. Proposed Use (check all that apply): <input type="checkbox"/> Single Family <input type="checkbox"/> Commercial <input type="checkbox"/> Multi-Family <input type="checkbox"/> Industrial <input type="checkbox"/> Private <input type="checkbox"/> Utility <input type="checkbox"/> Public <input type="checkbox"/> Other <input checked="" type="checkbox"/> Agricultural	6. If the proposed work relates to Excavation/Dredging as indicated in Box 4 above, provide the following information: Proposed acreage of excavation: <u>51.64</u> acres Proposed depth of excavation: <u>.75</u> feet below ground surface Proposed acreage of backfill area: <u>44.40</u> acres (if applicable)
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7. List all permits or certifications that have been applied for or obtained for the above referenced work:

Issuing Agency	Type of Approval	Identification Number	Application Date	Approval Date
US Corps of Engineers	Section 404 Permit	84B-1589	04/13/84	02/06/85*
DERM	Class IV Permit	Permit CC 898	04/26/84	05/85
DERM	Revised Class IV Permit	Permit CC 898	10/23/86	02/27/87

*See enclosed letter from Corps dated 2/24/85

8. Contractor Information (if known):

Name: to be determined License # (County/State): _____

Address: _____ Zip Code: _____

Phone #: _____ Fax #: _____ E-mail: _____

9. IMPORTANT NOTICE TO APPLICANTS: The written consent of the property owner is required for all applications to be considered complete. Your application WILL NOT BE PROCESSED unless the Applicant and Owner Consent portion of the application is completed below. You have the obligation to apprise the Department of any changes to information provided in this application.

Application is hereby made for a Miami-Dade County Class IV permit to authorize the activities described herein. I agree to or affirm the following:

- I possess the authority to authorize the proposed activities at the subject property, and
- I am familiar with the information, data and plans contained in this application, and
- To the best of my knowledge and belief, the information, data and plans submitted are true, complete and accurate, and
- I will provide any additional information, evidence or data necessary to provide reasonable assurance that the proposed project will comply with the applicable State and County water quality standards both during construction and after the project is completed, and
- I am authorizing the permit agent listed in Section 2 of this application to process the application, furnish supplemental information relating to this application and bind the applicant to all requirements of this application, and
- I agree to provide access and allow entry to the project site to inspectors and authorized representatives of Miami-Dade County for the purpose of making the preliminary analyses of the site and to monitor permitted activities and adherence to all permit conditions.

A. IF APPLICANT IS AN INDIVIDUAL

Signature of Applicant _____ Print Applicant's Name _____ Date _____

B. IF APPLICANT IS OTHER THAN AN INDIVIDUAL OR NATURAL PERSON

(Examples: Corporation, Partnership, Trust, LLC, LLP, etc.)

MDXQ LLC LLC Florida
 Print Name of Applicant (Enter the complete name as registered) Type (Corp, LLC, LLP, etc.) State of Registration/Incorporation

Under the penalty of perjury, I certify that I have the authority to sign this application on behalf of the Applicant, to bind the Applicant, and if so required to authorize the issuance of a bond on behalf of the Applicant. (If asked, you must provide proof of such authority to the Department). ***Please Note: If additional signatures are required, pursuant to your governing documents, operating agreements, or other applicable agreements or laws, you must attach additional signature pages.***

Jack Killmer Jack Killmer Mgr. 3/19/10
 Signature of Authorized Representative Print Authorized Representative's Name Title Date

C. IF APPLICANT IS A JOINT VENTURE Each party must sign below (if more than two members, list on attached page)

Print Name of Applicant (Enter the complete name as registered) Type (Corp, LLC, LLP, etc.) State of Registration/Incorporation

Print Name of Applicant (Enter the complete name as registered) Type (Corp, LLC, LLP, etc.) State of Registration/Incorporation

Under the penalty of perjury, I certify that I have the authority to sign this application on behalf of the Applicant, to bind the Applicant, and if so required to authorize the issuance of a bond on behalf of the Applicant. (If asked, you must provide proof of such authority to the Department). ***Please Note: If additional signatures are required, pursuant to your governing documents, operating agreements, or other applicable agreements or laws, you must attach additional signature pages.***

Signature of Authorized Representative _____ Print Authorized Representative's Name _____ Title _____ Date _____

Signature of Authorized Representative _____ Print Authorized Representative's Name _____ Title _____ Date _____

10. WRITTEN CONSENT OF THE PROPERTY OWNER FOR THE PROPOSED WORK LOCATION

I/We are the fee simple owner(s) of the real property located at _____, Miami-Dade County, Florida, otherwise identified in the public records of Miami-Dade County as Folio No. _____. I am aware and familiar with the contents of this application for a Miami-Dade County Class IV Permit to perform the work on the subject property, as described in Section 4 of this application. I hereby consent to the work identified in this Class IV Permit application.

A. IF THE OWNER IS AN INDIVIDUAL

Signature of Owner _____ Print Owner's Name _____ Date _____

Signature of Owner _____ Print Owner's Name _____ Date _____

B. IF THE OWNER IS OTHER THAN AN INDIVIDUAL OR NATURAL PERSON

— (Examples: Corporation, Partnership, Joint Venture, Trust, LLC, LLP, etc.)

MDXQ LLC LLC Florida
Print Name of Applicant (Enter the complete name as registered) Type (Corp, LLC, LLP, etc.) State of Registration/Incorporation

Address of Owner _____

Under the penalty of perjury, I certify that I have the authority to sign this application on behalf of the Owner, to bind the Owner, and if so required to authorize the issuance of a bond on behalf of the Owner. (If asked, you must provide proof of such authority to the Department). *****Please Note: If additional signatures are required, pursuant to your governing documents, operating agreements, or other applicable agreements or laws, you must attach additional signature pages.*****

[Signature] Jack Killman Mgr. 8/19/10
Signature of Authorized Representative Print Authorized Representative's Name Title Date

Signature of Authorized Representative _____ Print Authorized Representative's Name _____ Title _____ Date _____

Please Review Above

Appropriate signature(s) must be included in:

Box 9: either A, B or C

AND

Box 10: either A or B

WETLAND ACREAGE PROPOSED TO BE IMPACTED

Ridge and Furrow Nursery constructed prior to expiration of Wetland Construction Permit CC 898 as amended, including permitted access road	84.35 AC
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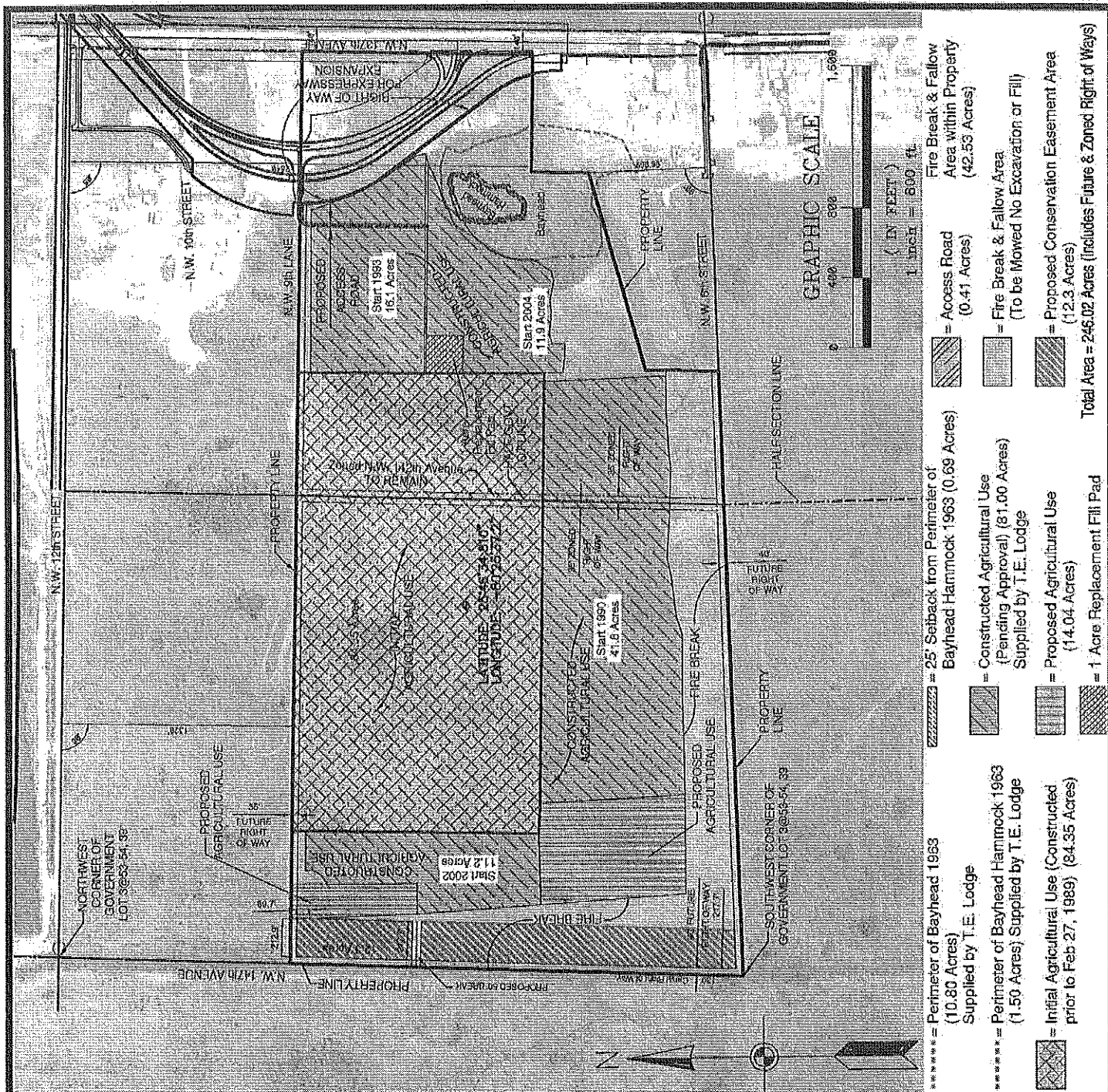
Ridge and Furrow Nursery constructed beginning 1990	41.80 AC
Ridge and Furrow Nursery constructed beginning 1993, including proposed .41 acre Access Road	16.10 AC
Ridge and Furrow Nursery constructed beginning 2002, including permitted Access Road	11.20 AC
Ridge and Furrow Nursery constructed beginning 2004, including permitted Access Road	11.90 AC
Total Area	81.00 AC

Proposed Ridge and Furrow Nursery	14.04 AC
Proposed 1 acre replacement Fill Pad	1.00 AC
Total Area	15.04 AC

Bayhead within 1963 Perimeter	10.80 AC
Proposed Conservation Easement Area	12.30 AC
Total Area	23.10 AC

Fire Break and Fallow Areas	42.53 AC
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Total Combined Area	246.02 AC
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COVENANT RUNNING WITH THE LAND IN FAVOR OF MIAMI-DADE COUNTY, FLORIDA BY MDXQ, LLC PROVIDING FOR THE CONSERVATION OF THE AGRICULTURAL OPERATION IN WETLANDS LOCATED BETWEEN NW 6TH STREET AND NW 9TH LANE AND BETWEEN NW 137TH AVENUE AND NW 147TH AVENUE, IN GOVERNMENT LOT 3, SECTION 53/54 SOUTH, RANGE 39 EAST, MIAMI-DADE COUNTY, FLORIDA.

The undersigned, MDXQ, LLC, being the owner of a parcel of real property legally described as set forth in Exhibit A, attached hereto and incorporated herein by reference, and located in Miami-Dade County, Florida (hereinafter referred to as the "Property") hereby proffers this executed Restrictive Covenant Running With The Land in Favor of Miami-Dade County, Florida as part of Miami-Dade County Department of Environmental Resources Management Class IV Permit Application Number CLIV 2008-0056:

1. The undersigned owner covenants to Miami-Dade County to comply with all conditions contained within the Special Conditions of Class IV Wetland Permit CLIV 2008-0056 executed on _____, attached hereto as Exhibit B and incorporated herein by reference.
2. The undersigned owner covenants to Miami-Dade County that the Agricultural Ridge and Furrow System, including designated firebreaks, access road and fill pad as shown on the site plan entitled "Drawing No. 1008-116-SP, Sheet 1 of 1, prepared by Fortin, Leavy, Skiles, Inc. and signed and sealed by Michael A. Vazquez, P.E. on January 5, 2012, attached hereto as Exhibit C and incorporated herein by reference, (the "Covenanted Area") shall be maintained in accordance with Class IV Wetland Permit 2008-0056 issued by the Miami-Dade County Department of Permitting Environment and Regulatory Affairs (hereinafter referred to as "PERA"), and shall remain within the approved configuration until such time as agricultural operations cease or a Class IV permit is approved for a modification to on-site conditions. Owner may conduct traditional farming, planting, tilling and harvesting operations on the elevated ridges and may work the edge of the ridges to recover soil that subsides into the furrows, without a further PERA permit, however, Owner shall limit work on the edge of the ridges to no more than 10% of the ridges in any given year. Owner may maintain the permitted access road and may mow and otherwise maintain the areas designated as "firebreaks" on said Site Plan and may use said firebreak areas to mulch or burn exotics removed from the Property without further PERA permit.
3. The undersigned owner covenants to Miami-Dade County that upon cessation of agricultural activities, either a) the elevated ridges within the covenanted area of the property shall be regraded to return the site to wetland elevation to match to undisturbed areas. The regrading of the ridges must be done in such a way as to not impact the furrow areas of the tree nursery, or b) a new Class IV permit, with appropriate mitigation shall be obtained to reflect the proposed modified usage of the property. Any mitigation required for a future permitted use of the property will be based on the "with project" UMAM scores reflected in the analysis for the agricultural

use of the site. This will acknowledge the mitigation provided to off-set the reduced wetland functional values associated with the agricultural use of the property and ensure that the agricultural condition as approved by Class IV Wetland Permit 2008-0056 will serve as the new baseline for assessing mitigation requirements that may be required for future permitted uses of the property.

4. The undersigned owner covenants and represents that any and all persons holding a security interest of any kind whatsoever in the Property has been advised of, and has agreed to, the execution of this Covenant Running with the Land.
5. The undersigned owner covenants and agrees that PERA shall have the right to inspect the Property at reasonable times to determine whether the Property is being used and maintained in the manner promised by the undersigned owners in this Covenant. If the Director of PERA or his designee determines after such an inspection that some curative action(s) on the Property is necessary in order to comply with the terms of these Covenants, PERA shall notify the owner in writing by certified mail, return receipt requested, at the address provided to PERA by the owner of the particular curative action(s) to be taken by the owner of the Property and the reasons therefore. The owner shall take such curative action(s) within a reasonable time, provided however, the owner shall have the right to appeal such proposed curative action(s) to the Miami-Dade County Environmental Quality Control Board by filing a written appeal within fifteen (15) days after receipt of written notification of said proposed curative action and the reasons therefore.
6. The undersigned owner covenants and agrees that all successors, heirs, assigns and grantees with respect to the Property shall be notified in writing of the agricultural conservation requirements contained herein and PERA shall receive copies of all such written notifications no later than thirty (30) days from any conveyance, sale, grant or transfer of this Property. The failure of the undersigned owner to provide such written notice to all successors, heirs, assigns, and grantees shall not, however, affect the validity or enforceability of this Covenant as to any such successors, heirs, assigns, and grantees.
7. This Restrictive Covenant shall run with the land and shall be recorded in the Public Records of Miami-Dade County, Florida and shall remain in full force and effect and be binding upon the undersigned, and their heirs, successors, grantees and assigns until such time as the same is modified or released by the Miami-Dade County Board of County Commissioners.
8. This Restrictive Covenant and the provisions contained herein may be enforced against any person permitting, allowing, letting, causing or suffering any violation of the terms of this Restrictive Covenant by PERA, or its successor, by temporary, permanent, prohibitory, and mandatory injunctive relief as well as otherwise provided by law or ordinance and also may include an action for and to recover civil penalties, damages, costs and expenses, and attorney's fees in favor of Miami-Dade County against said person(s) as authorized by law or ordinance. All of the remedies provided herein shall

be deemed to be independent and cumulative and shall be deemed to be supplemental to any remedies provided by law or ordinance.

9. The undersigned owner, its heirs, successors, assigns and grantees, shall notify PERA in writing no later than thirty (30) days after any conveyance, sale, grant or transfer of the Property or any portion thereof, to any heirs, successors, assigns or grantees.
10. The undersigned Owner covenants and agrees to use best management practices to eliminate or control exotic and nuisance vegetation as listed in the 2011 Florida Exotic Pest Plant Council (FLEPPC) Invasive Plant List as Category I or II, as may be amended from time to time, so that coverage of those species does not exceed 5% between maintenance treatments. In addition, *Typha* spp, (cattail) shall not exceed 5% of the coverage within the Covenanted Area. The existing crop of Strawberry Guava will be removed as it is sold and no further Strawberry Guava will be planted within the Covenanted Area.
11. The control techniques to be used for removal and control of exotic vegetation shall be approved by the Director of PERA. In the furrows, exotics may be controlled with herbicides approved for use in wetlands.
12. The undersigned Owner covenants and agrees to take reasonable steps to prohibit public access to the Covenanted Area. Such steps shall include,
 - (a) Posting the perimeter of the property with criminal trespass warning signs at all points where there is evidence of unauthorized access;
 - (b) Reporting to the Miami-Dade County ATV Patrol Unit all incidents of unauthorized access,
 - (c) Providing Miami-Dade County ATV Patrol Unit with keys to all gates providing access to the premises,
 - (d) Cooperating and assisting Miami-Dade County in all prosecutions for unauthorized access,
 - (e) Replacing or repairing the perimeter fence and regrading to original grade those areas disturbed by unauthorized access.
13. This Restrictive Covenant is to run with the land and shall be binding on all parties and all persons claiming under it for a period of thirty (30) years from the date this Restrictive Covenant is recorded after which time it shall be extended automatically for successive periods of ten (10) years each, unless an Instrument signed by the, then, owner(s) of the Property has been recorded agreeing to change the covenant in whole, or in part, provided that the Restrictive Covenant has first been modified or released by Miami-Dade County.
14. The term Owner shall include the Owner, and its heirs, successors, assigns and grantees.

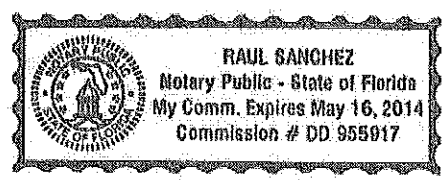
IN WITNESS WHEREOF, the undersigned have caused this Covenant to be executed this 5th day of April, 2011 2012.

Witnesses:		Property Owner:	
sign <u>Luis Riestra</u>	sign <u>Jack Killmer</u>		
print <u>LUIS Riestra</u>	print <u>Jack Killmer</u>		
sign <u>[Signature]</u>	Title <u>MANAGER</u>		
print <u>SAM C. VILLAR</u>	Address <u>8205 NW 58th St</u>		
	<u>Miami, FL 33166</u>		

STATE OF FLORIDA, COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me this 5th day of April, 2011, 2012 by JACK KILLMER as MANAGER, who is personally known to me or who has produced _____ as identification and who did take an oath.

NOTARY PUBLIC:
sign [Signature]
print RAUL SANCHEZ
State of Florida at Large (Seal)
My Commission Expires:



LEGAL DESCRIPTION:

A portion of Government Lot 3 lying between Townships 53 South and 54 South, Range 39 East, Miami-Dade County, Florida, being more particularly described as follows:

Begin at the Southwest corner of said Government Lot 3; thence North 01°44'40" East along the West line of said Government Lot 3 for 2594.09 feet; thence South 89°09'43" East along a line parallel to and 1320.00 feet South of as measured at right angles to the North line of said Government Lot 3, for 4311.23 feet to a point on a circular curve, concave to the Northeast and whose radius point bears North 89°43'14" East; thence Southerly along a 660.00 foot radius curve leading to the left through a central angle of 36°22'39" for an arc distance of 546.02 feet to a point of tangency; thence South 36°39'25" East for 760.42 feet to a point of curvature; thence Southerly along a 608.00 foot radius curve leading to the right through a central angle of 22°13'37" for an arc distance of 235.85 feet; thence North 89°09'43" West along a line parallel to and 2640.00 feet south of, as measured at right angle to the North line of said Government Lot 3 for 551.51 feet; thence South 01°00'39" West along a line parallel with the said East line of Government Lot 3 for 327.14 feet to a point being 698.06 feet North of as measured at right angles to the South line of said Government Lot 3; thence South 73°53'58" West for 1169.70 feet; thence South 01°00'39" West along a line parallel with the said East line of Government Lot 3 for 420.00 feet to a point on the South line of said Government Lot 3, said point being 1921.32 feet West of the Southeast corner of said Government Lot 3; thence South 87°43'53" West along the South line of said Government Lot 3 for 3429.09 feet to the POINT OF BEGINNING.

SURVEYOR'S NOTES:

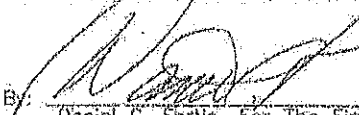
- This site lies in Government Lot 3, between Township 53 & 54 South, Range 39 East, Miami-Dade County, Florida.
- All documents are recorded in the Public Records of Miami-Dade County, Florida unless otherwise noted.
- Lands shown hereon were not abstracted for easements and/or rights-of-way of records.
- Bearings hereon are referred to an assumed value of South 87°43'53" West for the South line of said Government Lot 3.
- Lands shown hereon containing 10,716,467 square feet, or 246.02 acres, more or less.
- This is not a "Boundary Survey" but only a graphic depiction of the description shown hereon.

SURVEYOR'S CERTIFICATION:

I hereby certify that this "Sketch of Description" was made under my responsible charge on July 27, 2006, and meets the Minimum Technical Standards as set forth by the Florida Board of Professional Surveyors and Mappers in Chapter 61017-6, Florida Administrative Code, pursuant to Section 472.027, Florida Statutes.

"Not valid without the signature and the original raised seal of a Florida Licensed Surveyor and Mapper"

FORTIN, LEAVY, SKILES, INC., LB3653

By: 
Daniel C. Fortin, For The Firm
Surveyor and Mapper, LS2863
State of Florida.



FILED
JUL 27 2006
MIAMI-DADE COUNTY
RECORDS & CLERK
OFFICE

Drawn By REP	Description, Notes & Certification FORTIN, LEAVY, SKILES, INC. CONSULTING ENGINEERS, SURVEYORS & MAPPERS FLORIDA CERTIFICATE OF AUTHORIZATION NUMBER: 00003653 180 Northeast 168th Street / North Miami Beach, Florida 33162 Phone 305-643-4493 / Fax 305-651-7152 / Email fls@flsurvey.com	Date July 27, 2006
Cad. No. 061472		Scale None
Ref. Dwg. 2004-224/1006-127		Joh. No. 061472
Plotted: 7/28/06 8:52a		Dwg. No. 1006-155
		Sheet 1 of 3

TOWNSHIP 53 RANGE 39

NW 10th STREET

GOVERNMENT LOT 4

NW 147th AVENUE

GOVERNMENT LOT 3

NW 9th LANE

NW 137th AVENUE

GOVERNMENT LOT 2

SITE

TOWNSHIP 54 RANGE 39

GRAPHIC SCALE



(IN FEET)

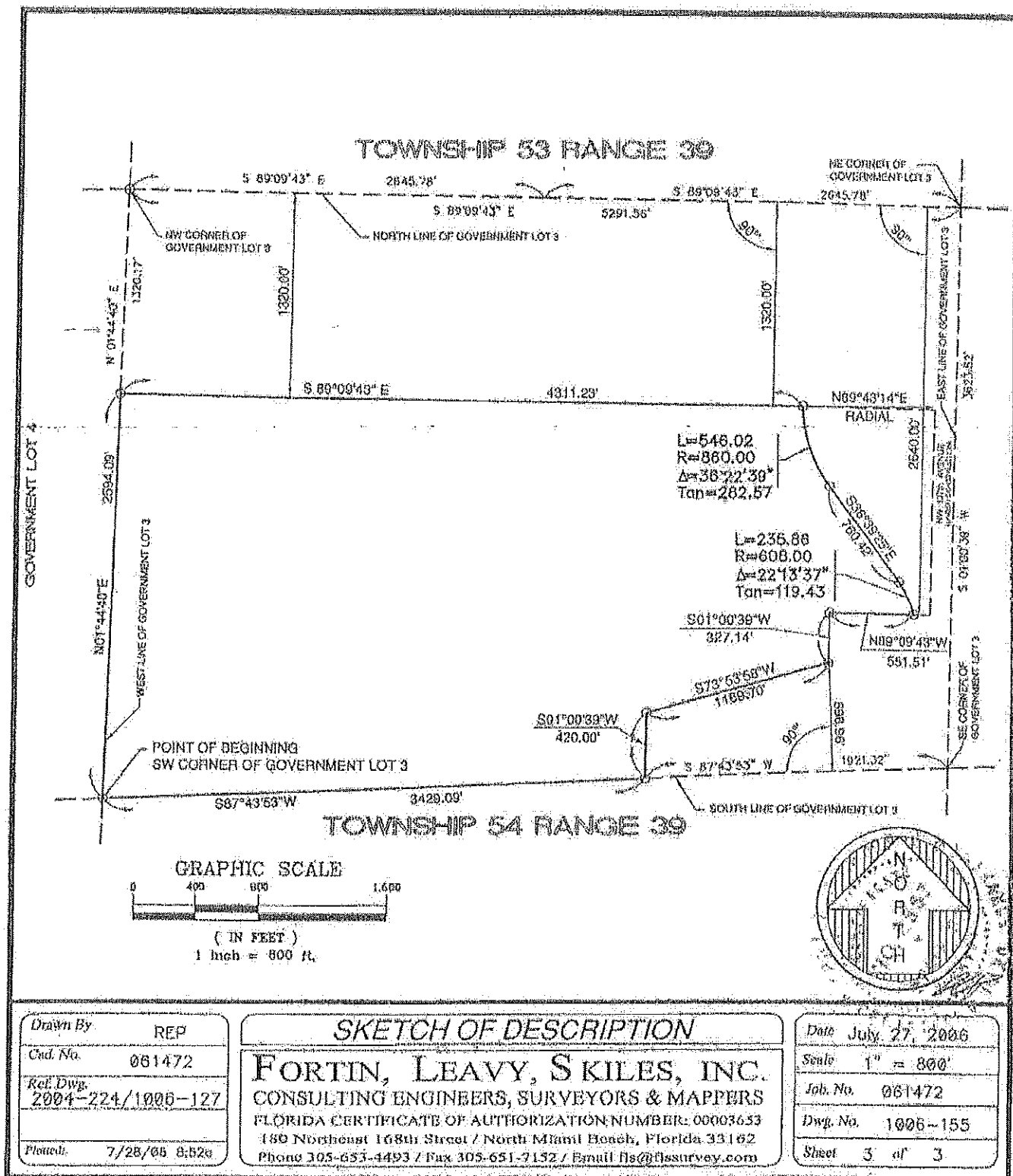
1 inch = 800 ft.

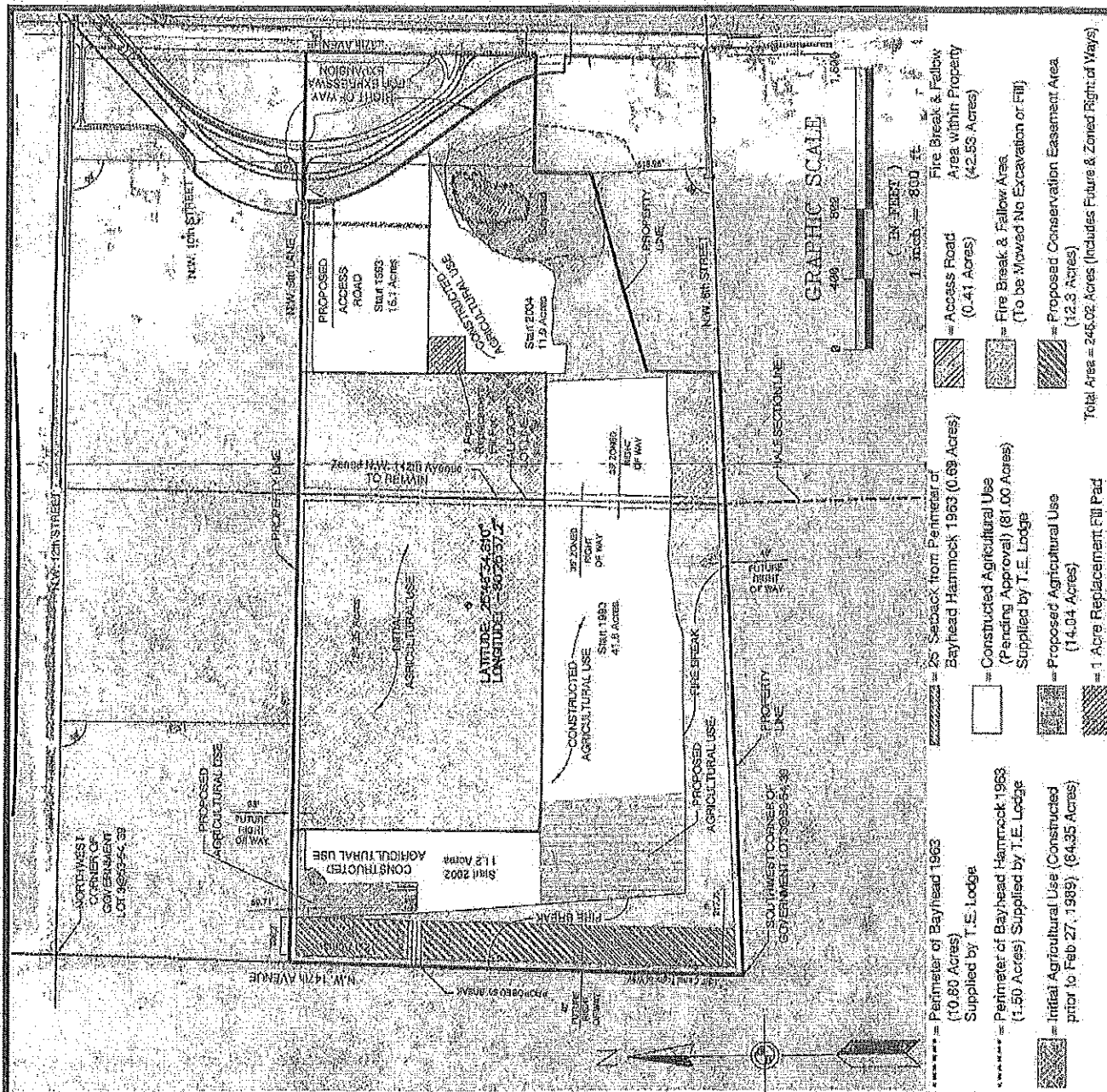


Drawn By	REP
Cad. No.	061472
Ref. Dwg.	2004-224/1006-127
Plotted:	7/28/06 8:52a

<i>Location Sketch</i>
FORTIN, LEAVY, SKILES, INC.
CONSULTING ENGINEERS, SURVEYORS & MAPPERS
FLORIDA CERTIFICATE OF AUTHORIZATION NUMBER: 00003653
180 Northeast 168th Street / North Miami Beach, Florida 33162
Phone 305-653-4493 / Fax 305-651-7152 / Email fls@flsurvey.com

Date	July 27, 2006
Scale	1" = 800'
Job No.	061472
Dwg. No.	1006-155
Sheet	2 of 3





Project: **SITE PLAN**
MDXQ LLC

Water Body: MIAMI-DADE COUNTY FRESHWATER LAKE BELT
Government Lot 3, Townships 53 & 54 South, Range 39 East, Miami-Dade County, Florida

FORTIN, LEAVY, SKILES, INC.
CONSULTING ENGINEERS, SURVEYORS & MAPPERS
FLORIDA CERTIFICATE OF AUTHORIZATION NUMBER: 00003653
180 Northeast 168th Street / North Miami Beach, Florida, 33162
Phone: 305-653-4493 / Fax 305-651-7132 / Email fls@flsurvey.com

MICHAEL A. VAZQUEZ P.E.
FLA. REG. #69249 (CIVIL)

Applicant: **MDXQ LLC**

Drawn By: REP
Cad. No.: 061116-8
Ref. Dwg.: 2004-224
Plotted: 2/17/12 12:47a

Date: January 05, 2012
Scale: 1" = 800'
Job. No.: 047022
Dwg. No.: 1008-116-SP
Sheet: 1 of 1

COVENANT RUNNING WITH THE LAND IN FAVOR OF MIAMI-DADE COUNTY, FLORIDA BY MDXQ, LLC PROVIDING FOR THE CONSERVATION OF WETLANDS MITIGATION AREAS AND UNDISTURBED WETLANDS AREAS LOCATED BETWEEN NW 6TH STREET AND NW 9TH LANE AND BETWEEN NW 137TH AVENUE AND NW 147TH AVENUE, IN GOVERNMENT LOT 3, SECTION 53/54 SOUTH, RANGE 39 EAST, MIAMI-DADE COUNTY, FLORIDA.

The undersigned, MDXQ, LLC, being the owner of a parcel of real property legally described as set forth in Exhibit A, attached hereto and incorporated herein by reference, and located in Miami-Dade County, Florida (hereinafter referred to as the "Property") hereby proffers this executed Restrictive Covenant Running With The Land in Favor of Miami-Dade County, Florida as part of Miami-Dade County Department of Environmental Resources Management Class IV Permit Application Number CLIV 2008-0056:

1. The undersigned owner covenants to Miami-Dade County to comply with all conditions contained within the Special Conditions of Class IV Wetland Permit CLIV 2008-0056 executed on _____, attached hereto as Exhibit B and incorporated herein by reference.
2. The undersigned owner covenants to Miami-Dade County that the Areas of the Property designated as "Perimeter of Bayhead 1963 (10.80 Acres)" and "Proposed Conservation Easement Area (12.3 Acres)" on that certain site plan entitled "Drawing No. 1008-116-SP, Sheet 1 of 1, prepared by Fortin, Leavy Skiles, Inc. and signed and sealed by Michael A. Vazquez, P.E. on January 5, 2012, attached hereto as Exhibit C and incorporated herein by reference (the "Covenanted Area"), shall be conserved and maintained in accordance with Class IV Wetland Permit 2008-0056.
3. The undersigned owner covenants and represents that any and all persons holding a security interest of any kind whatsoever in the Property has been advised of, and has agreed to, the execution of this Covenant Running with the Land.
4. The undersigned owner covenants and agrees that the Miami-Dade County Department of Permitting, Environment and Regulatory Affairs (hereafter referred to as "PERA") shall have the right to inspect the Property at reasonable times to determine whether the Property is being used and maintained in the manner promised by the undersigned owners in this Covenant. If the Director of PERA or his designee determines after such an inspection that some curative action(s) on the Property is necessary in order to comply with the terms of these Covenants, PERA shall notify the owner in writing by certified mail, return receipt requested, at the address provided to PERA by the owner of the particular curative action(s) to be taken by the owner of the Property and the reasons therefore. The owner shall take such curative action(s) within a reasonable time, provided however, the owner shall have the right to appeal such proposed curative action(s) to the Miami-Dade County Environmental Quality Control Board by filing a written appeal within fifteen (15) days after receipt of written notification of said proposed curative action and the reasons therefore.

5. The undersigned owner covenants and agrees that all successors, heirs, assigns and grantees with respect to the Property shall be notified in writing of the conservation requirements contained herein and PERA shall receive copies of all such written notifications no later than thirty (30) days from any conveyance, sale, grant or transfer of this Property. The failure of the undersigned owner to provide such written notice to all successors, heirs, assigns, and grantees shall not, however, affect the validity or enforceability of this Covenant as to any such successors, heirs, assigns, and grantees.
6. This Restrictive Covenant shall run with the land and shall be recorded in the Public Records of Miami-Dade County, Florida and shall remain in full force and effect and be binding upon the undersigned, and their heirs, successors, grantees and assigns until such time as the same is modified or released by the Miami-Dade County Board of County Commissioners.
7. This Restrictive Covenant and the provisions contained herein may be enforced against any person permitting, allowing, letting, causing or suffering any violation of the terms of this Restrictive Covenant by PERA, or its successor, by temporary, permanent, prohibitory, and mandatory injunctive relief as well as otherwise provided by law or ordinance and also may include an action for and to recover civil penalties, damages, costs and expenses, and attorney's fees in favor of Miami-Dade County against said person(s) as authorized by law or ordinance. All of the remedies provided herein shall be deemed to be independent and cumulative and shall be deemed to be supplemental to any remedies provided by law or ordinance.
8. The undersigned owner, its heirs, successors, assigns and grantees, shall notify PERA in writing no later than thirty (30) days after any conveyance, sale, grant or transfer of the Property or any portion thereof, to any heirs, successors, assigns or grantees.
9. The undersigned Owner covenants and agrees to use best management practices to eliminate or control exotic and nuisance vegetation as listed in the 2011 Florida Exotic Pest Plant Council (FLEPPC) Invasive Plant List as Category I or II, as may be amended from time to time, so that coverage of those species does not exceed 5% between maintenance treatments. In addition, *Typha* spp, (cattail) shall not exceed 5% of the coverage within the Covenanted Area. The existing crop of Strawberry Guava will be removed as it is sold and no further Strawberry Guava will be planted within the Covenanted Area.
10. The control techniques to be used for removal and control of exotic vegetation (the "Control Techniques") shall be approved by the Director of PERA. For the purposes of this Covenant, PERA approves the following Control Techniques:
 - (a) In all areas not permitted for Agricultural Use, Access Road, or Fillpad, except the area inside the Bayhead Hammock (1.50 acres), the approved Control Techniques include,
 - (i) Mulching in place with a track mounted or other low ground pressure mulcher;

- (ii) Hand cutting,
- (iii) Girdling and (in the dry season only) treating with herbicide approved for use in seasonal wetlands, and,
- (iv) Mowing at a height no less than 12 inches above grade, no more than twice a year, with a track mounted or other low ground pressure machine.

All such removal and Control Techniques to be conducted so as to preserve any stands of native trees and bushes in the Conservation Area.

- (b) Inside the Bayhead Hammock (1.50 acres) the approved Control Techniques are,
 - (i) Hand cutting, and
 - (ii) Girdling and (in the dry season only) treating with herbicide approved for use in seasonal wetlands

- 11. The undersigned Owner covenants and agrees to take reasonable steps to prohibit public access to the Covenanted Area. Such steps shall include,

- (a) Posting the perimeter of the property with criminal trespass warning signs at all points where there is evidence of unauthorized access;

- (b) Reporting to the Miami-Dade County ATV Patrol Unit all incidents of unauthorized access,

- (c) Providing Miami-Dade County ATV Patrol Unit with keys to all gates providing access to the premises,

- (d) Cooperating and assisting Miami-Dade County in all prosecutions for unauthorized access,

- (e) Replacing or repairing the perimeter fence and regrading to original grade those areas disturbed by unauthorized access.

- 12. This Restrictive Covenant is to run with the land and shall be binding on all parties and all persons claiming under it for a period of thirty (30) years from the date this Restrictive Covenant is recorded after which time it shall be extended automatically for successive periods of ten (10) years each, unless an instrument signed by the, then, owner(s) of the Property has been recorded agreeing to change the covenant in whole, or in part, provided that the Restrictive Covenant has first been modified or released by Miami-Dade County.

- 13. The term Owner shall include the Owner, and its heirs, successors, assigns and grantees.

IN WITNESS WHEREOF, the undersigned have caused this Covenant to be executed this 5th day of April, 2011. 2012.

Witnesses:

sign [Signature]

print LUIS Riestra

sign [Signature]

print SHIRLEY CHANER

Property Owner:

sign [Signature]

print JACK Killmer

Title MANAGER

Address 8205 NW 58th ST.
MIAMI, FL 33166

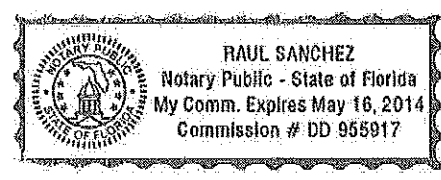
STATE OF FLORIDA, COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me this 5th day of APRIL, 2012, by JACK KILLMER as MANAGER, who is personally known to me or who has produced _____ as identification and who did take an oath.

NOTARY PUBLIC:

sign [Signature]
print RAUL SANCHEZ

State of Florida at Large (Seal)
My Commission Expires:



LEGAL DESCRIPTION:

A portion of Government Lot 3 lying between Townships 53 South and 54 South, Range 39 East, Miami-Dade County, Florida, being more particularly described as follows:

Begin at the Southwest corner of said Government Lot 3; thence North 01°44'40" East along the West line of said Government Lot 3 for 2594.00 feet; thence South 89°09'43" East along a line parallel to and 1320.00 feet South of as measured at right angles to the North line of said Government Lot 3, for 4311.23 feet to a point on a circular curve, concave to the Northeast and whose radius point bears North 89°43'14" East; thence Southerly along a 860.00 foot radius curve leading to the left through a central angle of 36°22'39" for an arc distance of 546.02 feet to a point of tangency; thence South 36°39'25" East for 760.42 feet to a point of curvature; thence Southerly along a 808.00 foot radius curve leading to the right through a central angle of 22°13'37" for an arc distance of 235.86 feet; thence North 89°09'43" West along a line parallel to and 2640.00 feet south of, as measured at right angle to the North line of said Government Lot 3 for 551.51 feet; thence South 01°00'30" West along a line parallel with the said East line of Government Lot 3 for 327.14 feet to a point being 698.98 feet North of as measured at right angles to the South line of said Government Lot 3; thence South 73°53'58" West for 1169.70 feet; thence South 01°00'39" West along a line parallel with the said East line of Government Lot 3 for 420.00 feet to a point on the South line of said Government Lot 3, said point being 1921.32 feet West of the Southeast corner of said Government Lot 3; thence South 87°43'53" West along the South line of said Government Lot 3 for 3429.00 feet to the POINT OF BEGINNING.

SURVEYOR'S NOTES:

- This site lies in Government Lot 3, between Township 53 & 54 South, Range 39 East, Miami-Dade County, Florida.
- All documents are recorded in the Public Records of Miami-Dade County, Florida unless otherwise noted.
- Lands shown hereon were not abstracted for easements and/or rights-of-way of records.
- Bearings hereon are referred to an assumed value of South 87°43'53" West for the South line of said Government Lot 3.
- Lands shown hereon containing 10,716,467 square feet, or 246.02 acres, more or less.
- This is not a "Boundary Survey" but only a graphic depiction of the description shown hereon.

SURVEYOR'S CERTIFICATION:

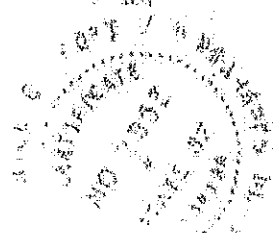
I hereby certify that this "Sketch of Description" was made under my responsible charge on July 27, 2006, and meets the Minimum Technical Standards as set forth by the Florida Board of Professional Surveyors and Mappers in Chapter 61G17-6, Florida Administrative Code, pursuant to Section 472.027, Florida Statutes.

"Not valid without the signature and the original raised seal of a Florida Licensed Surveyor and Mapper"

FORTIN, LEAVY, SKILES, INC., LB3853

By:

Daniel C. Fortin, For the Firm
Surveyor and Mapper, LS2853
State of Florida.



Drawn By: REP	Description, Notes & Certification FORTIN, LEAVY, SKILES, INC. CONSULTING ENGINEERS, SURVEYORS & MAPPERS FLORIDA CERTIFICATE OF AUTHORIZATION NUMBER: 00003633 180 Northeast 168th Street / North Miami Beach, Florida 33162 Phone 305-653-4493 / Fax 305-651-7152 / Email fls@flsurvey.com	Date: July 27, 2006
Cud. No. 061472		Scale: None
Ref. Dwg. 2004-224/1006-127		Job No. 061472
Plotted: 7/28/06 B:52a		Dwg. No. 1006-155
		Sheet 1 of 3

TOWNSHIP 53 RANGE 39

NW 12th STREET

GOVERNMENT LOT 4

NW 14th AVENUE

GOVERNMENT LOT 3

NW 9th LANE

SITE

GOVERNMENT LOT 2

TOWNSHIP 54 RANGE 39

GRAPHIC SCALE



(IN FEET)

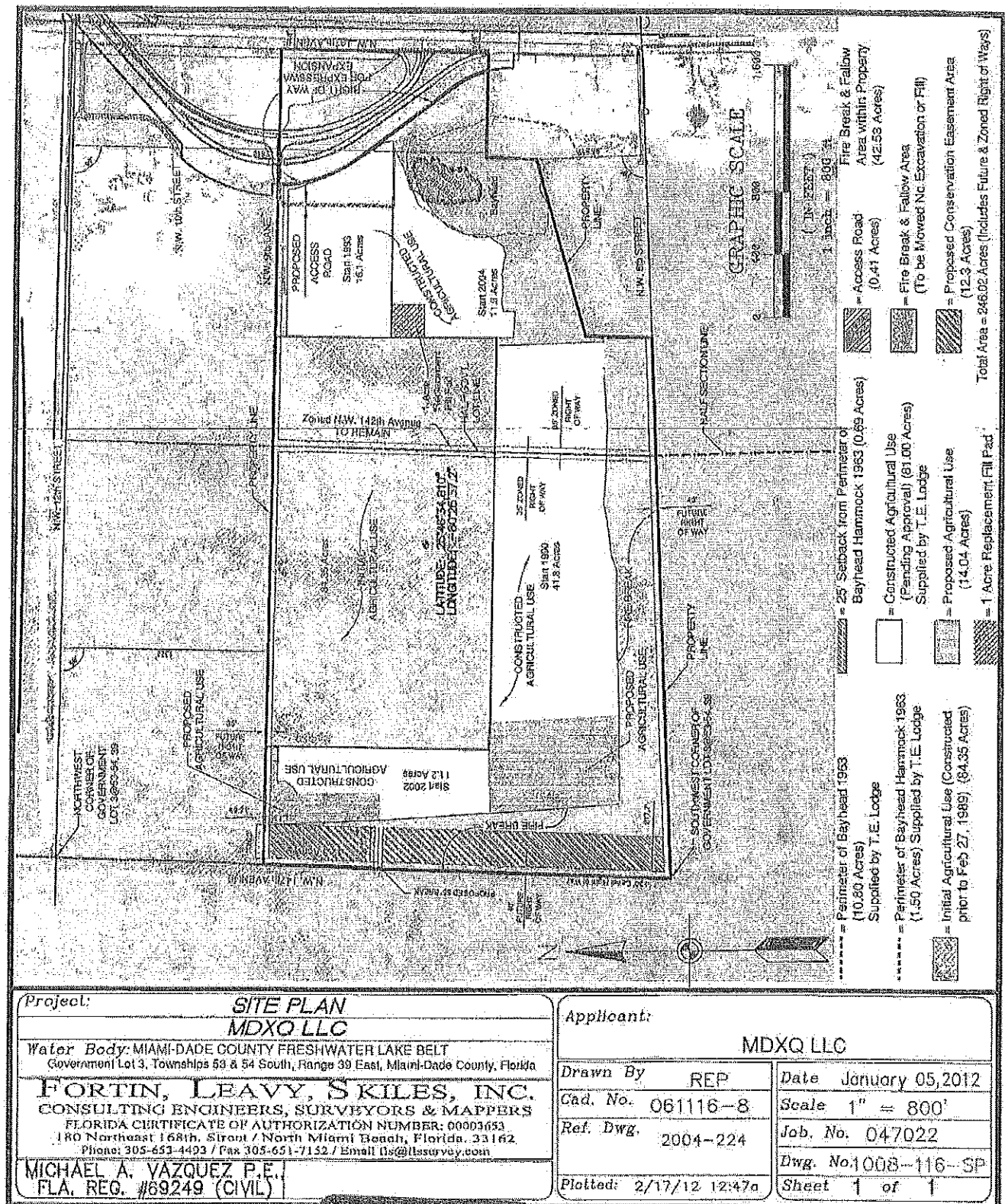
1 inch = 800 ft.



Drawn By	REP
Cad. No.	061472
Ref. Dwg.	2004-224/1005-127
Plotted:	7/28/08 8:52a

<i>Location Sketch</i>
FORTIN, LEAVY, SKILES, INC.
CONSULTING ENGINEERS, SURVEYORS & MAPPERS
FLORIDA CERTIFICATE OF AUTHORIZATION NUMBER: 00003653
180 Northeast 168th Street / North Miami Beach, Florida 33162
Phone 305-633-4493 / Fax 305-651-7152 / Email fls@flsurvey.com

Date	July 27, 2008
Scale	1" = 800'
Job. No.	061472
Dwg. No.	1005-155
Sheet	2 of 3



EXHIBIT

C

28

Attachment B

Applicant's/Agent's Letter
Engineer's Certification Letter

PERMIT APPLICANT/AUTHORIZED AGENT STATEMENT
FORTIN, LEAVY, SKILES, INC.
180 NE 168TH STREET, NORTH MIAMI BEACH, FL 33162

Date: April 6, 2012

To:

Miami-Dade County Permitting, Environment and Regulatory Affairs
701 N.W. 1st Court, 6th Floor
Miami, FL 33136

RE: Class IV Standard Form Permit Application Number 2008-CLIV-PER-00056 (Folio No. 30-3953-000-0130 & 30-3953-000-0138), MDXQ, LLC, for the approval to impact 246.02 acres of wetlands including the filling of 44.40 acres of wetlands and dredging of 51.64 acres of wetlands for an agricultural field nursery in Gov't. Lot 3, Twp. 53 S 54 S, Rge. 39 E in Miami-Dade County, Florida, PERA File FW 08-056.

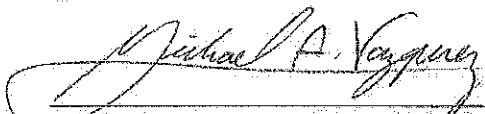
By the attached Class IV Standard Form permit application with supporting documents, I, Michael A. Vazquez, P.E., am the permit applicant / applicant's authorized agent (circle one) and hereby request permission to perform the following: for approval to impact 246.02 acres of wetlands including the filling of 44.40 acres of wetlands and dredging of 51.64 acres of wetlands for an agricultural field nursery in Gov't. Lot 3, Twp. 53 S 54 S, Rge. 39 E in Miami-Dade County, Florida, PERA File FW 08-056. I understand that a Miami-Dade County Class IV Standard Form Permit is required to perform this work.

If approval is granted for the proposed work by the Board of County Commissioners, complete and detailed plans and calculations of the proposed work shall be prepared by an engineering registered in the State of Florida in accordance with the minimum requirements of Chapter 24 of the Code of Miami-Dade County, Florida. Said plans and calculations shall be subject to the review and approval of the Department of Environmental Resources Management. The permit applicant will secure the services of an engineer registered in the State of Florida to conduct inspections throughout the construction period, and said engineer shall prepare all required drawings of record.

Respectfully submitted,

(Permit Applicant's Name), Permit Applicant

or


Michael A. Vazquez, P.E., Authorized Agent
Fortin, Leavy, Skiles, Inc.

RECEIVED

APR 26 2012

DERM Wetlands Resources Section
Natural Resources Regulation & Restoration
Division (NRRRD)

Fortin, Leavy, Skiles, Inc.

Consulting Engineers, Surveyors & Mappers

Daniel C. Fortin, Sr., PSM President
Richard L. Leavy, PSM Secretary/Treasurer
Daniel C. Fortin, Jr., PSM Vice President
Michael A. Vazquez, PE Vice President

100 Northeast 108th Street
North Miami Beach, Florida 33162-3412
Phone 305-653-4493
Fax 305-651-7152
www.flssurvey.com

April 6, 2012

ENGINEER LETTER OF CERTIFICATION

Miami-Dade County Permitting, Environment and Regulatory Affairs
701 N.W. 1 Court, 6th Floor
Miami, FL 33136

RECEIVED

APR 28 2012

DERM Wetlands Resources Section
Natural Resources Regulation & Restoration
Division (NRRD)

RE: Class IV Standard Form
Permit Application Number 2008-CLIV-PER-00056
For the impact of 246.02 acres of wetlands including the filling of 44.40 acres of
wetlands and dredging of 51.64 acres of wetlands for an agricultural field nursery in
Gov't. Lot 3, Twp. 53 S 54 S, Rge. 39 E
Miami-Dade County, Florida
FLS Job No. 20047022

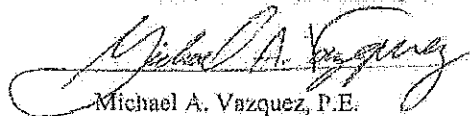
Ladies and Gentlemen:

This letter will certify that I am an engineer registered/licensed in the State of Florida, qualified by education and experience in the area of construction, and that to the best of my knowledge and belief, the proposed work does not violate any laws of the State of Florida or any provision of the Code of Miami Dade County which may be applicable, that diligence and recognized standard practices of the engineering profession have been exercised in the engineer's design process for the proposed work, and in my opinion based upon my knowledge and belief, the following will not occur:

- Harmful obstruction or undesirable alteration of the natural flow of the water within the area of the proposed work.
- Harmful or increased erosion, shoaling of channels or stagnant areas of water. (Not applicable to class IV permits)
- Material injury to adjacent property.
- Adverse environmental impacts from changes in water quality or quantity. (Applicable to class IV permits only)

Further, I have been retained by the applicant to provide inspections throughout the construction period and prepare a set of reproducible record prints of drawings showing changes made during the construction process based upon the marked-up prints, drawings, and other data furnished by the contractor to me.

Sincerely,
FORTIN, LEAVY, SKILES, INC.


Michael A. Vazquez, P.E.
Fla. Reg. # 69249

Attachment C

Zoning Approval Letter
Cut & Fill Approval

Memorandum



Date: May 15, 2012

To: Michael Spinelli, ERPS
Wetland Resources Section
Regulatory and Economic Resources
Department of Permitting Environment and Regulatory Affairs

From: Eric Silva, AICP, Assistant Director
Zoning and Community Design
Miami-Dade County Sustainability, Planning
and Economic Enhancement Department
Permitting, Environment and Regulatory Affairs Department

A handwritten signature in black ink, appearing to read "Eric Silva", written over a horizontal line.

Subject: MDXQ, LLC Agriculture operation (row and furrow field nursery)
Class IV Wetland Permit Application 2008-CLIV-PER-00056
Folio numbers 30-3953-000-0130 and 30-3953-000-0138

The proposed usage of the property upon which the proposed work would occur does not violate any zoning law, as it relates to zoning resolution 4-ZAB-489-84.

If you have any questions regarding this matter, please contact Fred Endara at extension (305) 375-3866.

ES/FE *fe*

RECEIVED

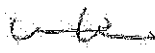
MAY 16 2012

DERM Wetlands Resources Section
Natural Resources Regulation & Restoration
Division (NRRRD)

Memorandum



Date: May 16, 2012

To: Mike Spinelli, ERPS 
Wetlands Resources Section
Department of Regulatory and Economic Resources

From: Maria Molina, P.E.
Senior Professional Engineer
Water Control Section
Department of Regulatory and Economic Resources

Subject: Class IV Application FW 08-056 (2008-CLIV-PER-00056)
Agricultural operation (row and furrow field nursery) in Govt. lot 3,
Township 53/54 South, Range 39 East

The Water Control Section has reviewed the proposed class IV permit entitled, "MDXQ, LLC Proposed Agricultural Use" prepared by Fortin, Leavy, Skiles, INC., dated April 11, 2012, to determine compliance with the required water quality, flood protection and relevant fill encroachment criteria, and recommends approval of this application subject to the following :

1. The agricultural area will not be required to comply with the North Trail Basin criteria, provided that no additional filling of the land is proposed.
2. An Individual ERP from the South Florida Water Management may be required.
3. Any proposed land use change will require compliance of the North Trail Basin criteria.

Attachment D

Adjacent Property Owners List

TRS OF II FUND
3900 COMMONWEALTH BLVD
TALLAHASSEE FL 32399

DOBA INVESTMENT CORP
P O BOX 440584
MIAMI FL 33144-0584

LOPEZ BROTHERS CORP
2601 SW 69 CT
MIAMI FL 33155-2818

TIITF/STATE OF FLORIDA PUBLIC
LAND % DNR DOUGLAS BLDG
TALLAHASSEE FL 32399

8TH STREET 250 LLC
3441 ALHAMBRA CIRCLE
CORAL GABLES FL 33134

MIAMI DADE EXPRESSWAY
AUTHORITY
3790 NW 21 ST
MIAMI FL 33142-6812

ANTONIO VESPASIANO VILLARI &
ETAL VICENTA A VILLARI DE LOPEZ &
JTRS
76 S ROYAL POINCIANA BLVD
MIAMI SPRINGS FL 33166-6059

DADE TITLE CORP
975 W 49 ST
HIALEAH FL 33012-3412

CARADEL VENTURES INC & WALTER
LISTA & W MARTA
11865 SW 26 ST STE B14
MIAMI FL 33175-2468

ROLANDO BARRERO TR
P O BOX 440584
MIAMI FL 33144-0584

SCHOOL BOARD OF MIAMI DADE
COUNTY
1450 NE 2 AVE
MIAMI FL 33132-1308

FLORIDA POWER & LIGHT CO
ATTN PROPERTY TAX DEPT
PO BOX 14000
JUNO BEACH FL 33408

RADIO PEACE CATHOLIC
BROADCASTING
1779 NW 28 ST
MIAMI FL 33142-6016

GONZALO ESTEVEZ
GONZALO ESTEVEZ JR
7924 NW 163 TERR
MIAMI LAKES FL 33016-6100

CHARLES F STIEREN SR TRS
30346 RAINEY RD
SORRENTO FL 32776

MAR LAND GROUP LLC
15500 NEW BARN RD SUITE 104
MIAMI LAKES FL 33014-2177

CORMACH INVESTMENTS INC
8500 SW 8 ST #238
MIAMI FL 33144-4000

RODOLFO PERDOMO
6901 FERN DR
MIAMI LAKES FL 33014-2028

Attachment E

Project Report

PROJECT REPORT

CLASS IV PERMIT APPLICATION NO. CLIV2008-0056

Class IV Permit Application by MDXQ LLC Requesting After-The-Fact Authorization to Impact 81 Acres of Wetlands and Requesting Authorization to Impact 15.04 Acres of Wetlands for an Agricultural Operation and Acceptance of Two Associated Restrictive Covenants for Conservation of Agriculture and the Preservation of 23.1 Acres of On-Site Wetlands.

April 6, 2012

Staff's recommendation of approval for the above-referenced project is based upon the applicable evaluation factors set forth in Section 24-48.3, Code of Miami-Dade County. The following is a summary evaluation of the proposed project with respect to each applicable evaluation factor:

1. Potential Adverse Environmental Impact – The proposed project will result in an adverse environmental impact to 96.04 acres of wetlands. However, the mitigation, as set forth in Number 14 below, will compensate for the loss of wetland values associated with the proposed project.
2. Potential Cumulative Adverse Environmental Impact – The proposed project will result in minimal cumulative adverse environmental impacts. However, the mitigation, as set forth in Number 14 below, will compensate for the loss of wetland values associated with the proposed project within the subject property.
3. Hydrology – The proposed project, as designed, is not reasonably expected to adversely affect surface water drainage or retention of storm water.
4. Water Quality – The proposed project, as designed, is not reasonably expected to adversely affect applicable Miami-Dade County water quality standards.
5. Wellfields – The proposed project is not located within a Wellfield Protection Area.
6. Water Supply – The proposed project is not reasonably expected to adversely affect the water supply.
7. Aquifer Recharge – The proposed project is not reasonably expected to adversely affect aquifer recharge.
8. Aesthetics – The proposed project is designed to be aesthetically compatible with the surrounding area.
9. Navigation – Not applicable.
10. Public Health – The proposed project is not reasonably expected to adversely affect the public health.
11. Historic Values – The proposed project is not reasonably expected to adversely affect historic values.
12. Archaeological Values – There is no known archaeological site located within the boundaries of this application.
13. Air Quality – The proposed project is not reasonably expected to adversely affect air quality.
14. Marine and Wildlife Habitats – The proposed project seeks approval for impacts from the proposed dredging and filling of 96.04 acres of wetlands. The wetlands that will be impacted within the project site are historically characterized as herbaceous prairie. The site contains areas of native wetland prairie with minimal impacts from *Melaleuca*, an invasive exotic plant species. The mitigation proposed for this project, the enhancement of 47.5 acres of wetlands within the agricultural furrows by lowering the elevation approximately six (6) to twelve (12) inches and preservation and enhancement of 21.3 acres of wetlands within the property boundary, is favorable for protecting wildlife habitats. The wetland restoration and enhancement conducted within this area will include preservation and maintenance of the wetlands through treatment and removal of invasive exotic vegetation.
15. Wetland Soils Suitable for Habitat – The proposed project will result in the permanent impacts to wetland soils. However, the mitigation, as set forth in Number 14, will result in the enhancement of existing wetland habitat and soils by removing exotics, thereby promoting re-vegetation with native wetland plant species and soil-vegetative interactions.

16. Floral Values - The proposed project will impact herbaceous wetlands. However, the mitigation, as set forth in Number 14 above, will provide for the restoration and preservation of native wetland vegetation appropriate for promoting the natural ecosystem.
17. Faunal Values - The proposed project will disturb native wildlife habitat. However, the mitigation, as set forth in Number 14 above, will provide for high quality habitat for native fauna.
18. Rare, Threatened and/or Endangered Species - The proposed project is not reasonably expected to result in adverse impacts to rare, threatened or endangered species, or species of special concern.
19. Natural Flood Damage Protection - The water management features of the project have been reviewed by the Department of Regulatory and Economic Resources (RER) Water Control Section and are in compliance with RER's criteria for development in this area. (See attachment C)
20. Wetland Values - The proposed project seeks approval to impact 96.04 acres of wetlands. The project site is an herbaceous prairie supporting native plant species; however it has been hydrologically altered due to State Road 836 Extension to the east and the C-4 Canal and Tamiami Trail to the south. Lower water levels have shifted the historically long-hydroperiod wetland to short-hydroperiod wetland and allowed the minimal colonization of invasive exotics on the site such as *Melaleuca*. The mitigation set forth in Number 14 above will compensate for the loss of wetland values associated with the proposed project.
21. Land Use Classification - The Planning and Zoning Department for Miami-Dade County has determined that the proposed usage does not violate any zoning law applicable to the area of the proposed work. (See Attachment C)
22. Recreation - The proposed project does not conflict with the recreation elements of the Miami-Dade County Comprehensive Development Master Plan and/or the Biscayne Bay Management Plan.
23. Other Environmental Values Affecting the Public Interest - There are no other known environmental factors that will affect the public interest.
24. Standard Construction Procedures and Practices and Design and Performance Standards - In the opinion of RER, the proposed project complies with the standard construction procedures and practices and design and performance standards of the applicable portions of the following:
 - a. Miami-Dade County Public Works Manual
 - b. Chapter 33B of the Code of Miami-Dade County
25. Comprehensive Environmental Impact Statement (CEIS) - In the opinion of the Director, the proposed mitigation plan will compensate for the loss of wetland values associated with the proposed project. As such, a CEIS was not required by RER to evaluate the proposed project.
26. Conformance with All Applicable Federal and State Laws and Regulations - In the opinion of RER, the proposed project is in conformance with the following applicable State, Federal and local laws and regulations:
 - a. United States Clean Water Act (US Army Corps of Engineers and USEPA)
 - b. Federal Endangered Species Act (US Fish & Wildlife Service)
 - c. Florida Department of Environmental Protection Regulations
 - d. Chapter 24 of the Code of Miami-Dade County
 - e. Rules of the South Florida Water Management District
 - f. Basis of Review for Surface Water Management Permit Applications Within the South Florida Water Management District

27. Conformance with the Miami-Dade County Comprehensive Development Master Plan (CDMP) – In the opinion of RER, the proposed land use is consistent with the CDMP. Specifically, the proposed project complies with the following CDMP Elements and Policies:

LAND USE ELEMENT:

Objective 1 – Growth management - The proposed project is generally consistent with the goals, objectives and policies contained in the Conservation, Aquifer Recharge and Drainage Element.

Objective 3/Policies 3B, 3C - Protection of natural resources and systems - The proposed project is consistent with all applicable environmental regulations, as well as all other elements of the CDMP. The proposed project is compatible with surrounding land uses and does not involve development in the Big Cypress area of Critical State concern or the East Everglades.

CONSERVATION, AQUIFER RECHARGE AND DRAINAGE ELEMENT:

Objective 2/Policy 2A – Protection of ground and surface water resources – The proposed project adheres –to all relevant storm water management criteria.

Objective 3/Policies 3A, 3B, 3D - Wellfield protection areas - The proposed project is not located within a Wellfield protection area.

Objective 3/Policy 3E - Limestone mining within the area bounded by the Florida Turnpike, the Miami-Dade/Broward Levee, NW 12 Street and Okeechobee Road - The proposed project is not located within the above referenced area.

Objective 4/Policies 4A, 4B, 4C - Water storage, aquifer recharge potential and maintenance of natural surface water drainage - The proposed project is not reasonably expected to adversely affect water storage, aquifer recharge potential, or natural surface water drainage.

Objective 5/Policies 5A, 5B, 5F - Flood protection and cut and fill criteria - The water management features of the proposed project have been reviewed by RER's Water Control Section and are in compliance with RER's criteria for development in this area.

Objective 6/Policy 6A - Areas of highest suitability for mineral extraction - The proposed project is located in Lake Belt Area suitable for mineral extraction. However, approval of this project will not exclude mineral extraction in the future.

Objective 6/Policy 6B - Guidelines for rock quarries for the re-establishment of native flora and fauna – Not applicable.

Objective 6/Policy 6D - Suitable fill material for the support of development – The proposed project will not cause premature urban encroachment. The proposed project must use suitable fill material in order to meet the requirements of Chapter 24 of the Code of Miami-Dade County.

Objective 7/Policy 7A - No net loss of high quality, relatively unstressed wetlands – The wetlands impacted by this project are not considered high quality. The loss of wetland values associated with the proposed project will be mitigated as set forth in Number 14 above.

Objective 9/Policies 9A, 9B, 9C - Protection of habitat critical to Federal or State-designated threatened or endangered species - The proposed project is not reasonably expected to affect any rare, threatened, or endangered species.

28. Conformance with Chapter 33B, Code of Miami-Dade County (East Everglades Zoning Overlay Ordinance) – The proposed project is not within the East Everglades Zoning overlay area.
29. Conformance with Miami-Dade County Ordinance 81-19 (Biscayne Bay Management Plan) – The proposed project is not within the area of the Biscayne Bay Management Plan.
30. Conformance with Manatee Protection Plan – Not applicable.
31. Consistency with Miami-Dade County Criteria for Lake Excavation – Not applicable.
32. Municipality Recommendation - The Miami-Dade County Zoning Department has determined the proposed usage does not violate any zoning law applicable to the area of the proposed work. (See Attachment C)
33. Coastal Resources Management Line – Not Applicable.
34. Maximum Protection of a Wetland's Hydrological and Biological Functions Through Adherence to the Following Fill Limitations: -
 - i) Placement of the minimum fill necessary to provide for the land usage alternative which results in the least adverse environmental impact and the least cumulative adverse environmental impact – The proposed project uses the minimum amount of fill necessary to provide for the proposed land usage alternative.
 - ii) Placement of temporary fill pads and fill roads for the purpose of conducting rock mining - Not applicable.

The proposed project was also evaluated for compliance with the minimum required standards contained in Section 24-48.3 (2), (3), and (4) of the Code of Miami-Dade County. The following is a summary of the proposed project's compliance with said standards:

24-48.3 (2) Dredging and/or Filling for Class I Permit – Not applicable.

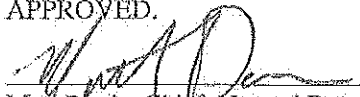
24-48.3 (3) Docks and Piers for Mooring Purposes - Not applicable.

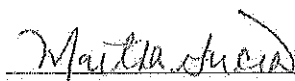
24-48.3 (4) Clean Fill in Wetlands - The proposed project involves the placement of clean fill material only as defined in Section 24-5 of the Code of Miami-Dade County.

24-48.3 (6) Basin Fill Criteria – The proposed project complies with criteria for the total volume of fill material placed on a project. Specifically, the drainage plans and calculations for the subject project comply with the requirements of the North Trail Basin criteria as per Cut and Fill approval and meets the water quality and water quantity for stormwater.

SUMMARY

BASED ON THE FOREGOING, IT IS RECOMMENDED THAT A CLASS IV PERMIT BE APPROVED.


Matt Davis, Chief, Natural Resources Regulation and Restoration Division
Department of Regulatory and Economic Resources


Martha Garcia, Biologist II, Natural Resources Regulation and Restoration Division
Department of Regulatory and Economic Resources

NOTICE OF PUBLIC HEARING ON AN APPLICATION BY MDXQ LLC FOR A CLASS IV PERMIT REQUESTING AFTER-THE-FACT AUTHORIZATION TO IMPACT 81 ACRES OF WETLANDS AND REQUESTING TO IMPACT 15.04 OF WETLANDS FOR AN AGRICULTURAL OPERATION LOCATED BETWEEN NW 137 AVENUE AND NW 147 AVENUE AND BETWEEN NW 6 STREET AND NW 9 LANE IN GOVERNMENT LOT 3, TOWNSHIP 53 AND 54 SOUTH, RANGE 39 EAST, MIAMI, FLORIDA, AND ACCEPTANCE OF TWO ASSOCIATED RESTRICTIVE COVENANTS FOR CONSERVATION OF AGRICULTURE AND PRESERVATION OF 23.1 ACRES OF ON-SITE WETLANDS

BOARD OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

NOTICE IS HEREBY GIVEN pursuant to Article IV, Division 1 of Chapter 24 of the Code of Miami-Dade County that the Board of County Commissioners of Miami-Dade County will hold and conduct a Public Hearing on a request by MDXQ LLC, for a Class IV wetland permit requesting after-the-fact authorization to impact 81.0 acres of wetlands and authorization to impact 15.04 acres of wetlands for an agricultural operation and to accept two restrictive covenants for the conservation of agriculture and the preservation of 23.1 acres of onsite wetlands for the property located west of NW 137 Avenue between NW 6 Street and NW 9 Lane in Miami. Such Public Hearing will be held on the 17th of July 2012 at the County Commission Chambers on the 2nd Floor of the Stephen P. Clark Center at 111 NW 1st Street in Miami, Florida.

Plans and details concerning the work requested in the application may be reviewed by interested persons at the office of the Miami-Dade County Department of Regulatory and Economic Resources, 701 NW 1st Court, Suite 600, Miami, Florida 33136.

Oral statements will be heard and appropriate records made. For accuracy of records, all important facts and arguments should be prepared in writing in triplicate, with two copies being submitted to the Deputy Clerk of the County Commission at the hearing or mailed to him beforehand (Christopher Agrippa, Deputy Clerk), 111 NW 1st Street, Stephen P. Clark Center, Suite 17-202, Miami, Florida 33128; and with one copy being submitted beforehand to the Miami-Dade County Department of Regulatory and Economic Resources, 701 NW 1st Court, Suite 400, Miami, Florida, 33136.

A person who decides to appeal any decision made by any Board, Agency, or Commission with respect to any matter considered at its meeting or hearing, will need a record of proceedings. Such person may need to ensure that a verbatim record of the proceedings is made, including the testimony and evidence upon which the appeal is to be based.

BOARD OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

HARVEY RUVIN, CLERK

BY: _____
Christopher Agrippa, Deputy Clerk